

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

All-Pro Medical Supply, Inc.,  
(PTAN: 6390060001),

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-14-1863

Decision No. CR3671

Date: February 27, 2015

**DECISION**

Petitioner, All-Pro Medical Supply, Inc., is a supplier of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), located in Shelby Township, Michigan, that, until recently, participated in the Medicare program. The Centers for Medicare & Medicaid Services (CMS) determined that the supplier was no longer accredited by a CMS-approved accrediting organization and revoked its Medicare billing privileges. Petitioner appeals the revocation.

Neither party presents any witnesses, so an in-person hearing would serve no purpose. *See* Acknowledgment and Pre-hearing Order at 6 (¶¶ 10, 11). I may therefore decide the matter based on the written record.

Because the supplier was no longer accredited by a CMS-approved accrediting organization, CMS properly revoked its billing privileges.

## Background

Until its Medicare provider number was revoked, effective on or about May 28, 2014, Petitioner participated in the Medicare program as a supplier of DMEPOS. *See* 42 C.F.R. § 424.57. In a letter dated April 28, 2014, the Medicare contractor, National Supplier Clearinghouse, notified Petitioner that its Medicare supplier number would be revoked, effective 30 days from the date of the letter's postmark, pursuant to 42 C.F.R. §§ 405.800; 424.57(e); 424.535(a)(1); and 424.535(g). According to the letter, Petitioner did not comply with one supplier standard: 42 C.F.R. § 424.57(c)(22), because the supplier's accreditation expired on November 14, 2013, and had not been renewed. CMS Ex. 6.

Petitioner sought reconsideration. In a reconsidered determination dated July 25, 2014, a Medicare hearing officer affirmed the revocation of Petitioner's supplier number. CMS Ex. 1. Petitioner now appeals that determination pursuant to 42 C.F.R. § 424.545.

With its brief, CMS submits seven exhibits (CMS Exs. 1-7). Petitioner submitted letters dated November 20, 2014 and December 29, 2014. Notwithstanding the November 20 date, we received both letters on December 30, 2014.<sup>1</sup> In the absence of any objection, I admit into evidence CMS Exs. 1-7.

## Discussion

*CMS properly revoked the supplier's billing number, because the supplier was no longer accredited, as required by the Medicare statute and regulations.*<sup>2</sup>

Requirements for a DMEPOS supplier's Medicare participation. To receive Medicare payments for items furnished to a Medicare-eligible beneficiary, a supplier of medical equipment and supplies must have a supplier number issued by the Secretary of Health and Human Services. Social Security Act § 1834(j)(1)(A); 42 C.F.R. § 424.505.

To obtain and retain a supplier number, a Medicare supplier must, among other requirements, demonstrate that it is accredited by an approved accreditation organization.

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<sup>1</sup> My pre-hearing order directed Petitioner to submit its pre-hearing exchange by November 30, 2014. We did not receive Petitioner's submission, and, on December 15, 2014, I issued an order to show cause directing Petitioner to submit the required briefing within 15 days. Petitioner responded by submitting these two letters and explaining that, in error, the Civil Remedies Division sent the order to Shelby Township, Mississippi 48315 rather than Shelby Township, Michigan 48315.

<sup>2</sup> I make this one finding of fact/conclusion of law.

Act § 1834(a)(20)(F)(i); 42 C.F.R. § 424.57(c)(22). CMS may revoke its billing privileges if it fails to do so. 42 C.F.R. § 424.57(c) and (d); 42 C.F.R. § 424.535(a)(1).

Here, the parties agree that Petitioner was accredited by the Accreditation Commission for Healthcare, Inc., until November 14, 2013, when its accreditation expired. CMS Br. at 9; CMS Exs. 1, 5; CMS Ex. 6 at 1; *see* P. Nov. 20 Ltr.; CMS Ex. 7 (indicating Petitioner was not listed as an accredited supplier). Petitioner concedes that its accreditation expired, but asserts that it applied for re-accreditation before then. P. Nov. 20 Ltr. at 2; *see* CMS Ex. 3. Petitioner attributes its delay in filing to the considerable expense involved. Email correspondence between the supplier and the accreditation organization indicates that the organization received the supplier's application on November 18, 2013. CMS Ex. 5 at 2. The supplier's application was apparently approved on July 29, 2014 so it was eventually re-accredited. P. Nov. 20 Ltr. at 2.

I agree with CMS, that the reasons Petitioner allowed its accreditation to lapse are irrelevant. The statute and regulation make no exceptions for lapses in accreditation. Further, that the supplier was eventually re-accredited does not preclude CMS from revoking its billing privileges based on the loss of its accreditation. *See Pepper Hill Nursing & Rehab. Ctr., LLC*, DAB No. 2395 at 5-7 (2011) (finding retroactive compliance insufficient to prevent revocation of a supplier's billing privileges).

### **Conclusion**

Because the supplier was not accredited, as required by the Medicare statute and regulations, CMS properly revoked its billing privileges.

        /s/        

Carolyn Cozad Hughes  
Administrative Law Judge